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LeGrand & Quentin Byrne

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

JOHN MANUEL RUIZ,

Plaintiff,

V.

NEVADA DEPARTMENT OF
CORRECTIONS, et al.,

Defendants.

CASE NO. 2:18-cv-00091-RFB-EJY

**MOTION FOR EXTENSION OF TIME
TO RESPOND TO COURT ORDER RE
SUGGESTION OF DEATH AND
ACCEPTANCE OF SERVICE
(ECF NO. 80)**

Defendants Tara Carpenter, David Carpenter, Dr. John Scott, Adrian Garcia, Robert LeGrand and Quentin Byrne, by and through counsel, Aaron D. Ford, Nevada Attorney General, and Charles D Hopper, Deputy Attorney General, hereby file their Motion for Extension of Time to Respond to Court Order re Suggestion of Death and Acceptance of Service.

I. INTRODUCTION

This is an inmate Civil Rights lawsuit. Plaintiff John Manuel Ruiz (Ruiz) filed his First Amended Complaint (FAC) on August 23, 2018. (ECF No. 12).

Pursuant to the Court's May 28, 2019 Screening Order, Ruiz was allowed to proceed on one claim of sexual assault against Defendant Fredericks; one claim of failure to protect against Defendants Chacon, D. Carpenter, Simms, Kerri and R. Garcia; one claim of retaliation against Defendants Chacon, D. Carpenter, Simms, LeGrand, T. Carpenter, Byrne, Rosas and Garcia; one claim of due process in disciplinary hearings against Defendants D. Carpenter and Simms; one claim of deliberate indifference to serious medical needs against Defendant Scott; and one claim of deprivation of property against Defendant Rosas. (ECF No. 13 at 15-16).

On August 7, 2020, this Court entered an Order wherein it ordered Defendants to refile their suggestion of death and to file a notice with the Court stating whether Defendants will accept service of process for Celia Chacon within fifteen (15) days of the date of the Order, which would result in a due date of August 24, 2020. (ECF No. 80).

II. APPLICABLE LAW

Federal Rule of Civil Procedure 6(b)(1) governs extensions of time and provides as follows:

When an act may or must be done within a specified time, the court may, for good cause, extend the time: (A) with or without motion or notice if the court acts, or if a request is made, before the original time or its extension expires; or (B) on motion made after the time has expired if the party failed to act because of excusable neglect.

Any request to change deadlines established in the scheduling order must be supported by a showing of good cause pursuant to FED. R. CIV. P. 16(b)(4), which turns primarily on a showing that the deadlines currently in place could not reasonably be met despite the diligent of the movant. *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 609 (9th Cir. 1992).

III. ARGUMENT

Ruiz respectfully requests a twenty-one (21) day extension of time to respond to the Court Order regarding suggestion of death and notice regarding acceptance of service. Defense counsel has been unavailable due to medical issues and is now transferring

divisions within the Attorney General's office. The requested extension would allow for the new Deputy Attorney General assigned to this case to have enough time to familiarize him/herself with the case and catch up. If the Court grants the twenty-one (21) days extension, the suggestion of death and notice of acceptance of service would be due September 14, 2020. Accordingly, Ruiz respectfully requests a twenty-one (21) day extension of time to refile the suggestion of death and to file a notice regarding acceptance of service.

IV. CONCLUSION

For the foregoing reasons, Ruiz respectfully requests a twenty-one (21) day extension of time to refile the suggestion of death and to file a notice regarding acceptance of service.

DATED this 24th day of August, 2020.

AARON D. FORD
Attorney General

By: /s/ *Charles D Hopper*
Charles D Hopper (Bar. No. 6346)
Deputy Attorney General
Attorneys for Defendants
Tara Carpenter, David
Carpenter, Dr. John Scott,
Adrian Garcia, Robert
LeGrand & Quentin Byrne

ORDER

IT IS HEREBY ORDERED that Defendants' Motion for Extension of Time to Respond to Court Order Re Suggestion of Death and Acceptance of Service (ECF No. 83) is GRANTED.

IT IS FURTHER ORDERED that Defendants shall have up to and including September 14, 2020 to refile the suggestion of death and to file a notice with the Court regarding acceptance of service for Celia Chacon.

Elayna J. Zouchah
UNITED STATES MAGISTRATE JUDGE

Dated: August 24, 2020